UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

BRIAN BEVAN,

Plaintiff,

vs. Case No. 2:03—cv-500-FtM-2OSpC

MIKE SCOTT, individually and in his official capacity as Sheriff of Lee County, Florida, JOHN MCDOUGALL, individually, KENNETH ERNE, MARK DURLING, HARVEY HUDNALL, FRED BOND, DAVE BONSALL, ROSS DI PASQUALE, SERGEANT HAMILTON, RICHARD TRAVIS COWART, CLAUDIA GADD COWART, JACKIE COWART, SOUTHWEST UTILITY SYSTEMS, INC., CHUCK FUNDERMARK and CHUCK'S WHISKEY CREEK SERVICE, INC.,

Defendant.

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**ORDER**

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #242), filed February 23, 2005, recommending that the case against the Law Enforcement Defendants should be dismissed with prejudice, and that the Law Enforcement attorney's fees and costs for bringing this Motion and two previous motions to compel (Docs. #130 and 140) should be imposed as sanctions against plaintiff Brian Bevan. Plaintiff filed his Objection (Doc. #255) on March 7, 2005.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b) (1) ; Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.s. 1112 (1983) . In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo,* Garvey v. Vaughn, 993 F.2d 776, 779 n. 9 (11th Cir. 1993), and the court may accept, reject or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b) (1) (0). The district judge reviews legal conclusions *de novo,* even in

the absence of an objection. see cooper—Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Oir. 1994); castro Bobadilla v. Rena, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), aff'd, 28 F.3d 116 (11th Cir. 1994) (Table)

After conducting an independent examination of the file and upon due consideration of the Report and Recommendation, the court accepts the Report and Recommendation of the magistrate judge as an alternative ruling to its Opinion and Order granting summary judgment as to these defendants. The court finds that plaintiff's failure to comply with the court's Orders demonstrates a willful and bad faith disregard towards the orders of this court and the other litigants involved in this case. The court, however, will not impose the Law Enforcement attorney's fees and costs for bringing this Motion and two previous motions to compel (Doc. #130 and 140) as sanctions against plaintiff.

Accordingly, it is now

ORDERED:

1. The Report and Recommendation is hereby **accepted** and

adopted by the Court to the extent that the Law Enforcement defendants will be dismissed, and otherwise **rejected** to the extent that the Court declines to impose fees and costs as sanctions.

The Objection (Doc. #255) is **overruled.**

2. In the alternative to the granting of summary judgment, the Court would dismiss with prejudice the Amended Complaint against Mike Scott, in his official capacity as Sheriff of Lee County, Florida, Rodney Shoap, John McDougall, Kenneth Erne, Mark Durling, Harvey Hudnall, Fred Bond, Dave Bonsall, Ross Di Pasquale, and Sergeant Hamilton.

DONE AND ORDERED at Fort Myers, Florida, this 19th day of September, 2005.

JOHN E STEELE
United States District Judge

Copies:
Hon. Sheri Poister Chappell
United States Magistrate Judge

Counsel of Record
Unrepresented parties